IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4399 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NEW INDIA ASSURANC CO LTD.

Versus

YUSF IBRAHIMBHAI DHOBI

Appearance:

1. First Appeal No. 4399 of 2001

MR SANDIP C SHAH for Petitioner No. 1

MR HRIDAY BUCH for Respondent No. 1

MR BN RAVAL for Respondent No. 2

..... for Respondent No. 3

CORAM : MR.JUSTICE M.H.KADRI
and
MR.JUSTICE H.H.MEHTA

Date of decision: 19/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.H.KADRI)

Learned Advocate for the appellant Shri Sandip C.Shah seeks permission to delete names of respondent Nos. 2 and 3 from record of this First appeal as well as Civil Application No. 10615 of 2001. Permission to delete names of respondent Nos. 2 and 3 is granted. Amendment in First Appeal as well as Civil Application be carried out forthwith.

2. Appeal is admitted. Learned Advocate Shri Hriday Buch waives service of notice of admission on behalf of respondent No.1. With the consent of learned Advocates for both the parties, the appeal is taken up for final hearing today,.

3. The appellant -Insurance Company, by filing this appeal, has challenged judgment and award dated 31st March, 1993 passed by Motor Accident Claims Tribunal (Auxi.), Surendranagar in Motor Accident Claim Petition No. 294 of 1993 by which judgment and award, the Tribunal awarded compensation of Rs. 1,33,000/- together with costs and interest at the rate of 12% p.a. from the date of the application till realisation to the respondent for the injuries sustained by him in a vehicular accident which took place on January 3, 1993 due to rash and negligent driving by vehicle bearing registration No. GJQ-6805. In this appeal, the Insurance Company has challenged the quantum of compensaion to extent of Rs. 20,000/-.

4. Heard the learned Counsel for the respective parties. Looking to the facts and circumstances of the case and evidence on record as also nature of injuries sustained by the respondent (original claimant), the award passed by the Tribunal is modified to the extent that the respondent claimant is entitled to compensation of Rs.1,13,000/- with proportionate costs and interest to be calculated at the rate of 12% p.a. from the date of filing of the claim petition till December 31, 1999 and thereafter, at the rate of 9% p.a. till realisation. The award of the Tribunal be modified accordingly. Appeal is partly allowed to the above extent. No order as to costs.

Direct service is permitted.

Date:19/12/2001. (M.H.KADRI,J.) (H.H.MEHTA,J.)
ccshah